

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 704 (Sub-No. 1)

REVIEW OF COMMODITY, BOXCAR, AND TOFC/COFC EXEMPTIONS

Decided: July 2, 2019

By decision served on March 19, 2019, the Board granted a petition by the American Forest & Paper Association (AF&PA) and the Institute of Scrap Recycling Industries, Inc. (ISRI), to waive the Board's prohibition on ex parte communications to permit interested stakeholders to meet with Board members to discuss the issues raised in this proceeding. Parties were permitted to meet with Board members between March 19, 2019, and June 17, 2019, and were instructed to submit to the Board member office with whom the meeting was held a memorandum that included, among other things, a summary of the data and arguments presented during the ex parte communication. Parties were also directed to submit their memoranda no later than two business days after the ex parte communication, and interested parties were allowed 10 days from the close of the ex parte communication period to submit written comments in response to the memoranda.

On June 19, 2019, the Board granted a request filed by AF&PA and ISRI to extend the deadline for the submission of their and their members' memoranda to June 21, 2019. The Board also extended the deadline for comments submitted in response to the memoranda to July 2, 2019.

On June 28, 2019, AF&PA filed a motion to extend, until July 16, 2019, the deadline for AF&PA to file written comments in response to certain meeting summary memoranda submitted in this proceeding. AF&PA asserts, among other things, that the American Iron and Steel Institute (AISI) and the Steel Manufacturers Association (SMA) have submitted in their meeting summary memoranda new pricing evidence regarding paper and forest products commodities. AF&PA states that an extension is warranted so that it may complete its review of this new evidence and develop its response.¹ On July 1, 2019, the Association of American Railroads (AAR) filed a response to AF&PA's motion, taking no position on the specific request for a two-week extension of time, but raising several procedural and substantive issues in this proceeding. AAR also states that, if the Board extends the deadline for the submission of comments, the Board should treat all commenters equally by extending the deadline for all commenters.

¹ AF&PA asserts that, while it is requesting an extension of time for its own comments, it is not opposed to an extension that broadly applies to all parties' comments. AF&PA further submits that neither AISI nor SMA oppose its motion.

For good cause shown, an extension will be granted to provide additional time for AF&PA and other interested parties to submit comments in response to the memoranda submitted in this proceeding. Accordingly, comments in response to the memoranda are due by July 16, 2019.

It is ordered:

1. AF&PA's request to extend the deadline for the submission of comments in response to memoranda submitted in this proceeding is granted.
2. Comments in response to the memoranda are due by July 16, 2019.
3. This decision is effective on its service date.

By the Board, Allison C. Davis, Director, Office of Proceedings.